

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**THOMAS WAYNE SMITH,**

**Plaintiff,**

**v.**

**Sheriff VAN PEAUVY, *et al.*,**

**Defendants.**

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**CIVIL ACTION NO. 5:11-CV-177(MTT)**

**ORDER**

This case is before the Court on the Recommendation (Doc. 11) of United States Magistrate Judge Charles H. Weigle pursuant to his 28 U.S.C. § 1915(e)(2) initial review. The Magistrate Judge recommends allowing the Plaintiff's claims against Defendant Sergeant Mike Brogdon for use of excessive force in violation of the Eighth Amendment to proceed. However, the Magistrate Judge recommends dismissing the remaining defendants because (a) the Plaintiff failed to make any allegations against any other defendant and (b) as to supervisory defendants, there is no respondeat superior liability under § 1983. The Plaintiff did not file an objection.

Pursuant to 28 U.S.C. § 636(b)(1), the Court has reviewed the Recommendation and the Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge. The Recommendation is adopted and made the order of this Court. The Plaintiff's claims against all Defendants except for Defendant Brogdon are **DISMISSED**. The Plaintiff's claims against Defendant Brogdon may proceed. Therefore, service is to be made on Defendant Brogdon.

**SO ORDERED**, this the 19th day of August, 2011.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT

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